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FRED KICENSKI

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

HERTZ EQUIPMENT RENTAL COMPANY, a  
Delaware corporation,

Plaintiff,

v.

RAMON USEDÁ, FRED KICENSKI, and DOES  
1 through 20,

Defendants.

Case No.: 3:10-cv-4953-WHA

**STIPULATION AND ~~PROPOSED~~ ORDER  
REGARDING EXTENSION OF  
TEMPORARY RESTRAINING ORDER,  
CONTINUANCE OF PRELIMINARY  
INJUNCTION HEARING, AND  
DISCOVERY AS TO DEFENDANT FRED  
KICENSKI**

Date of Filing: November 2, 2010  
Trial Date: None set

1 Pursuant to Local Rules 6-2, 7-12 and 65-1(c), and Fed. R. Civ. P. 65(b)(2), Plaintiff Hertz  
2 Equipment Rental Corporation ("HERC") and Defendant Fred Kicenski ("Kicenski"), by and through  
3 their respective counsel, hereby stipulate and request that the Court enter an order as follows:

4 1. WHEREAS, on November 2, 2010, the Court granted Plaintiff Hertz Equipment  
5 Rental Corporation's *Ex Parte* Motion for (1) Temporary Restraining Order; (2) Order to Show  
6 Cause re Preliminary Injunction; and (3) Expedited Discovery as to Kicenski by Order entered that  
7 day (the "Order");

8 2. WHEREAS, the Order set the preliminary injunction hearing with respect to Kicenski  
9 for November 18, 2010, at 8:00 a.m.;

10 3. WHEREAS, HERC served the Order and all supporting papers on Defendant Fred  
11 Kicenski ("Kicenski") on November 2, 2010;

12 4. WHEREAS, Counsel for Kicenski, James Sell of Parton Sell Rhoades, contacted  
13 counsel for HERC, Charles Dyke of Nixon Peabody LLP, on or about November 3, 2010, and  
14 counsel thereafter discussed the timing and substance of further proceedings in this matter, including  
15 discovery;

16 5. WHEREAS, in light of these discussions, Kicenski and HERC believe that a short  
17 continuance of the preliminary injunction hearing will (a) permit both Kicenski and HERC to conduct  
18 necessary discovery in advance of the hearing; (b) permit HERC and Kicenski to prepare more  
19 effective and complete papers in support of their respective positions; and (c) further the interests of  
20 justice.

21 6. NOW, THEREFORE, KICENSKI AND HERC STIPULATE and agree to, and  
22 respectfully request that the court enter, the following order:

23 (a) The hearing on the preliminary injunction currently scheduled for November  
24 18, 2010, shall be continued to December 2, 2010 at 8:00 a.m.

25 (b) Kicenski shall file any papers in opposition to the preliminary injunction by  
26 noon on November 19, 2010. HERC shall file any reply papers by noon on  
27 November 25, 2010.

(e) HERC shall produce Mark Hobson and James Herlitz for deposition no later than November 17, 2010, at the offices of Nixon Peabody LLP in San Francisco or at such other location as Kicenski and HERC may mutually agree.

[illegible]

(f) The Court's November 2, 2010 Order shall otherwise remain in full force and effect until the conclusion of the preliminary injunction hearing.

IT IS SO STIPULATED.

DATED: November 8, 2010

NIXON PEABODY LLP

By: 

Charles M. Dyke  
Attorneys for Plaintiff  
HERTZ EQUIPMENT RENTAL  
CORPORATION

DATED: November 8, 2010


PARTON SELL RHOADES

By: 

James E. Sell  
Attorneys for Defendant  
FRED KICENSKI

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: November 9, 2010.

  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE